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15 Attorneys for Plaintiff

16 IN THE UNITED STATES DISTRICT COURT

17 NORTHERN DISTRICT OF CALIFORNIA

18 JAMES A. NEWBOLD, individually and on
19 behalf of all others similarly situated,

20) **Case No. 10-cv-04271-CW**

21 Plaintiff,

22) **STIPULATION AND ORDER
v.) FOR DISMISSAL WITHOUT
Plaintiff,) PREJUDICE**

23 THOMAS LACEY, JEFFREY SMITH,
24 RICHARD NOLING, DAVE FULLER,
25 DOUGLAS BARNETT, MITCHELL
26 TUCHMAN, EDWARD TERINO,
27 KENNETH TRAUB, PATRICK LITTLE,
28 PHOENIX TECHNOLOGIES LTD.,
PHARAOH ACQUISITION CORP. and
PHARAOH MERGER SUB CORP.,

Defendants.

Case No. 10-cv-04271-CW

STIPULATION AND ORDER FOR DISMISSAL WITHOUT PREJUDICE

1 **STIPULATION**

2 WHEREAS, Plaintiff wishes to dismiss this action without prejudice, and
3 WHEREAS, all Defendants are willing to stipulate to the dismissal of the action without
4 prejudice, and

5 WHEREAS, no consideration is being given by Defendants to Plaintiff for said dismissal,

6 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between all
7 parties to this action, pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii), that the action shall be dismissed
8 without prejudice, with each party to bear its own costs, expenses and attorneys' fees.

9 **IT IS SO STIPULATED.**

10 Dated: December 29, 2010

11 BRAMSON, PLUTZIK, MAHLER &
12 BIRKHAEUSER, LLP

13 /s/
14 Alan R. Plutzik

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27 DATED: December 29, 2010

28 WILSON SONSINI GOODRICH & ROSATI

/s/
Boris Feldman

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Attorneys for Defendants Thomas Lacey, Jeffrey
Smith, Richard Noling, Dave Fuller, Douglas Barnett,
Mitchell Tuchman, Edward Terino, Kenneth Traub,
Patrick Little and Phoenix Technologies Ltd.

1 DATED: December 29, 2010

LATHAM & WATKINS LLP

2
3 /s/
4

Patrick E. Gibbs

5 Patrick E. Gibbs (Bar No. 183174)
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9 Attorneys for Defendants Pharaoh Acquisition Corp.
and Pharaoh Merger Sub Corp.

10 **Attestation Pursuant To General Order 45**

11 I, Alan R. Plutzik, attest that concurrence in the filing of this document has been obtained
12 from the other signatories. I declare under penalty of perjury under the laws of the United States
13 that the foregoing is true and correct. Executed this 29th day of December, 2010 at Walnut Creek,
14 California.

15
16 _____ /s/ Alan R. Plutzik _____

17 **ORDER**

18 Pursuant to Stipulation, IT IS SO ORDERED.

19
20 Dated: 1/3/2011

21 _____ 
United States District Judge